

## CHAPTER 176

### CHILD ABUSE INFORMATION AND CENTRAL REGISTRY

H.F. 698

AN ACT relating to child abuse information and the central registry for child abuse information maintained by the department of human services and providing an effective date.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I CHILD ABUSE REGISTRY

Section 1. Section 232.68, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The definitions in section 235A.13 are applicable to this part 2 of division III. As used in sections 232.67 through 232.77 and 235A.12 through 235A.23, unless the context otherwise requires:

Sec. 2. Section 232.70, subsection 4, Code 1997, is amended to read as follows:

4. The Upon receipt of a report the department of human services shall do all of the following:

a. Immediately, upon receipt of an oral report, make a determination as to whether the report constitutes an allegation of child abuse as defined in section 232.68<sup>2</sup>;

~~b. Make a report to the central registry if the oral report has been determined to constitute a child abuse allegation;~~

~~c. Forward a copy of the written report to the registry; and~~

~~d. b.~~ Notify the appropriate county attorney of the receipt of any the report.

Sec. 3. Section 232.71, subsections 7, 8, and 9, Code 1997, are amended to read as follows:

7. The department, upon completion of its investigation, shall make a preliminary report of its investigation as required containing the information required by subsection 2. A copy of this report shall be transmitted to juvenile court within four regular working days after the department initially receives the abuse report unless the juvenile court grants an extension of time for good cause shown. If the preliminary report is not a complete report, a complete report shall be filed within ten working days of the receipt of the abuse report, unless the juvenile court grants an extension of time for good cause shown. If required under section 232.71D, the report of the investigation shall be placed in the central registry. The department shall notify a subject of the report of the result of the investigation, of the subject's right to correct the ~~information report data and disposition data~~ pursuant to section 235A.19, and of the procedures to correct the ~~information data~~. The juvenile court shall notify the ~~registry department~~ of any action it takes with respect to a suspected case of child abuse.

~~8. The department of human services shall transmit a copy of the report of its investigation, including actions taken or contemplated, to the registry. The department of human services shall make periodic follow-up reports thereafter in a manner prescribed by the registry so that the registry is kept up-to-date and fully informed concerning the handling of a suspected case of child abuse.~~

~~9~~ 8. The department ~~of human services~~ shall also transmit a copy of the report of its investigation to the county attorney. The county attorney shall notify the ~~registry department office which transmitted the report to the county attorney~~ of any actions or contemplated actions with respect to a ~~suspected alleged~~ case of child abuse so that the ~~registry department office~~ is kept up-to-date and fully informed concerning the handling of ~~such a~~ the case. If the report was placed in the central registry in accordance with section 232.71D,

the department office shall notify the registry of any actions or contemplated actions by the county attorney concerning the report.

Sec. 4. Section 232.71A, subsection 7, Code 1997, is amended by striking the subsection.

Sec. 5. **NEW SECTION. 232.71D FOUNDED CHILD ABUSE — CENTRAL REGISTRY.**

1. The requirements of this section shall apply to child abuse information in the report of an investigation performed in accordance with section 232.71 or in the report of an assessment performed in accordance with section 232.71A.

2. If the alleged child abuse meets the definition of child abuse under section 232.68, subsection 2, paragraph “a” or “d”, and the department determines the injury or risk of harm to the child was minor and isolated and is unlikely to reoccur, the names of the child and the alleged perpetrator of the child abuse and any other child abuse information shall not be placed in the central registry as a case of founded child abuse.

3. Except as otherwise provided in section 232.68, subsection 2, paragraph “d”, regarding parents legitimately practicing religious beliefs, the names of the child and the alleged perpetrator and the report data and disposition data shall be placed in the central registry as a case of founded child abuse under any of the following circumstances:

a. The case was referred for juvenile or criminal court action as a result of the acts or omissions of the alleged perpetrator or a criminal or juvenile court action was initiated by the county attorney or juvenile court within twelve months of the date of the department’s report concerning the case, in which the alleged perpetrator was convicted of a crime involving the child or there was a delinquency or child in need of assistance adjudication.

b. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph “a”, involving nonaccidental physical injury suffered by the child and the injury was not minor or was not isolated or is likely to reoccur.

c. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse and the department has previously determined within the eighteen-month period preceding the issuance of the department’s report that the acts or omissions of the alleged perpetrator in a prior case met the definition of child abuse.

d. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph “b”, involving mental injury.

e. The department determines the acts or omissions meet the definition of child abuse under section 232.68, subsection 2, paragraph “c”, and the alleged perpetrator of the acts or omissions is age fourteen or older. However, the juvenile court may order the removal from the central registry of the name of an alleged perpetrator placed in the registry pursuant to this paragraph who is age fourteen through seventeen upon a finding of good cause. The name of an alleged perpetrator who is less than age fourteen shall not be placed in the central registry pursuant to this paragraph.

f. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph “d”, involving failure to provide care necessary for the child’s health and welfare, and any injury to the child or risk to the child’s health and welfare was not minor or was not isolated or is likely to reoccur, in any of the following ways:

- (1) Failure to provide adequate food and nutrition.
- (2) Failure to provide adequate shelter.
- (3) Failure to provide adequate health care.
- (4) Failure to provide adequate mental health care.
- (5) Gross failure to meet emotional needs.
- (6) Failure to respond to an infant’s life-threatening condition.

g. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph “e”, involving prostitution.

h. The department determines the acts or omissions of the alleged perpetrator meet the definition of child abuse under section 232.68, subsection 2, paragraph "f", involving the presence of an illegal drug.

i. The alleged abuse took place in any of the following licensed, registered, unregistered, or regulated facilities or services:

- (1) Substance abuse program licensed under chapter 125.
- (2) Hospital licensed under chapter 135B.
- (3) Health care facility or residential care facility licensed under chapter 135C.
- (4) Psychiatric medical institution licensed under chapter 135H.
- (5) Medical assistance home and community-based waiver for persons with mental retardation residential program regulated by the department of human services and the department of inspections and appeals.
- (6) An institution controlled by the department and enumerated in section 218.1.
- (7) Mental health center, juvenile shelter care facility, or juvenile detention facility.
- (8) Child foster care licensee under chapter 237.
- (9) Child day care provider under chapter 237A.
- (10) Public or private school which provides overnight care.
- (11) The Iowa braille and sight saving school and the Iowa school for the deaf controlled by the state board of regents.

j. The department determines the alleged perpetrator of the child abuse will continue to pose a danger to the child who is the subject of the report of child abuse or to another child with whom the alleged perpetrator may come into contact.

4. If report data and disposition data are placed in the central registry in accordance with this section, the department shall make periodic follow-up reports in a manner prescribed by the registry so that the registry is kept up-to-date and fully informed concerning the case.

5. a. The confidentiality of all of the following shall be maintained in accordance with section 217.30:

- (1) Investigation or assessment data.
- (2) Information pertaining to an allegation of child abuse for which there was no investigation or assessment performed.
- (3) Information pertaining to an allegation of child abuse which was determined to not meet the definition of child abuse. Individuals identified in section 235A.15, subsection 4, are authorized to have access to such information under section 217.30.
- (4) Report data and disposition data pertaining to an allegation of child abuse determined to meet the definition of child abuse which is not subject to placement in the central registry. Individuals identified in section 235A.15, subsection 3, are authorized to have access to such data under section 217.30.

b. The confidentiality of report data and disposition data pertaining to an allegation of child abuse determined to meet the definition of child abuse which is subject to placement in the central registry, shall be maintained as provided in chapter 235A.

Sec. 6. Section 235A.13, Code 1997, is amended by adding the following new subsection: NEW SUBSECTION. 2A. "Department" means the department of human services.

Sec. 7. Section 235A.13, subsections 1, 6, and 8, Code 1997, are amended to read as follows:

1. "Child abuse information" means any or all of the following data maintained by the department in a manual or automated data storage system and individually identified:

- a. Report data.
- b. Investigation or assessment data.
- c. Disposition data.

6. "Investigation or assessment data" means any of the following information pertaining to the department's evaluation of report data, including a family:

~~a. Additional information as to the nature, extent and cause of the injury, and the identity of persons responsible therefor.~~

- ~~b. The names and conditions of other children in the home.~~
- ~~e. The child's home environment and relationships with parents or others responsible for the child's care.~~
  - a. Identification of the strengths and needs of the child, and of the child's parent, home, and family.
  - b. Identification of services available from the department and informal and formal services and other support available in the community to meet identified strengths and needs.
- 8. "Report data" means any of the following information pertaining to any occasion involving or reasonably believed to involve an investigation or assessment of an allegation of child abuse, including in which the department has determined the alleged child abuse meets the definition of child abuse:
  - a. The name and address of the child and the child's parents or other persons responsible for the child's care.
  - b. The age of the child.
  - c. The nature and extent of the injury, including evidence of any previous injury.
  - d. ~~Any other~~ Additional information believed to be helpful in establishing as to the nature, extent, and cause of the injury, and the identity of the person or persons alleged to be responsible therefor for the injury.
  - e. The names and conditions of other children in the child's home.
  - f. Any other information believed to be helpful in establishing the information in paragraph "d".

Sec. 8. Section 235A.14, subsection 6, Code 1997, is amended to read as follows:

6. The central registry shall include ~~but not be limited to~~ report data, ~~investigation data~~ and disposition data which is subject to placement in the central registry under section 232.71D. The central registry shall not include assessment data.

Sec. 9. Section 235A.15, Code 1997, is amended to read as follows:

235A.15 AUTHORIZED ACCESS — PROCEDURES INVOLVING OTHER STATES.

1. Notwithstanding chapter 22, the confidentiality of all child abuse information shall be maintained, except as specifically provided by subsection 2, 3, or 4.

2. Access to ~~child abuse information other than unfounded child abuse information is~~ report data and disposition data subject to placement in the central registry pursuant to section 232.71D are authorized only to the following persons or entities:

- a. Subjects of a report as follows:
  - (1) To a child named in a report as a victim of abuse or to the child's attorney or guardian ad litem.
  - (2) To a parent or to the attorney for the parent of a child named in a report as a victim of abuse.
  - (3) To a guardian or legal custodian, or that person's attorney, of a child named in a report as a victim of abuse.
  - (4) To a person or the attorney for the person named in a report as having abused a child.
- b. Persons involved in an investigation or assessment of child abuse as follows:
  - (1) To a health practitioner or mental health professional who is examining, attending, or treating a child whom such practitioner or professional believes or has reason to believe has been the victim of abuse or to a health practitioner or mental health professional whose consultation with respect to a child believed to have been the victim of abuse is requested by the department.
  - (2) To an employee or agent of the department of human services responsible for the investigation or assessment of a child abuse report.
  - (3) To a law enforcement officer responsible for assisting in an investigation of a child abuse allegation or for the temporary emergency removal of a child from the child's home.
  - (4) To a multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to

assist the department in the investigation, diagnosis, assessment, and disposition of a child abuse case.

(5) In an individual case, to the mandatory reporter who reported the child abuse.

(6) To the county attorney.

(7) To the juvenile court.

(8) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the alleged child abuse under section 232.71, subsection 4.

(9) To a person or agency responsible for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or department deems access to report data and disposition data by the person or agency to be necessary.

c. Individuals, agencies, or facilities providing care to a child, but only with respect to disposition data and, if authorized in law to the extent necessary for purposes of an employment evaluation, report data, for cases of founded child abuse placed in the central registry in accordance with section 232.71D as follows:

~~(1) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the child abuse under section 232.71, subsection 4.~~

~~(2) To an authorized person or agency responsible for the care or supervision of a child named in a report as a victim of abuse or a person named in a report as having abused a child, if the juvenile court or registry deems access to child abuse information by such person or agency to be necessary.~~

~~(3) To an employee or agent of the department of human services responsible for registering or licensing or approving the registration or licensing of an agency or facility, or to an individual providing care to a child and regulated by the department.~~

~~(4) To an employee of the department of human services responsible for an adoptive placement, a certified adoption investigator, or licensed child placing agency responsible for an adoptive placement.~~

~~(5) (1) To an administrator of a psychiatric medical institution for children licensed under chapter 135H.~~

~~(6) (2) To an administrator of a child foster care facility licensed under chapter 237 if the information data concerns a person employed or being considered for employment by the facility.~~

~~(7) (3) To an administrator of a child day care facility registered or licensed under chapter 237A if the information data concerns a person employed or being considered for employment by or living in the facility.~~

~~(8) (4) To the superintendent of the Iowa braille and sight saving school if the information data concerns a person employed or being considered for employment or living in the school.~~

~~(9) (5) To the superintendent of the school for the deaf if the information data concerns a person employed or being considered for employment or living in the school.~~

~~(10) (6) To an administrator of a community mental health center accredited under chapter 230A if the information data concerns a person employed or being considered for employment by the center.~~

~~(11) (7) To an administrator of a facility or program operated by the state, a city, or a county which provides services or care directly to children, if the information data concerns a person employed by or being considered for employment by the facility or program.~~

~~(12) (8) To an administrator of an agency certified by the department of human services to provide services under a medical assistance home and community-based services waiver, if the information data concerns a person employed by or being considered by the agency for employment.~~

~~(13) (9) To the administrator of an agency providing mental health, mental retardation,~~

or developmental disability services under a county management plan developed pursuant to section 331.439, if the information data concerns a person employed by or being considered by the agency for employment.

(10) To an administrator of a child day care resource and referral agency which has entered into an agreement authorized by the department to provide child day care resource and referral services. Access is authorized if the data concerns a person providing child day care services or a person employed by a provider of such services and the agency includes the provider as a referral or the provider has requested to be included as a referral.

d. Relating Report data and disposition data, and investigation or assessment data to the extent necessary for resolution of the proceeding, relating to judicial and administrative proceedings as follows:

(1) To a juvenile court involved in an adjudication or disposition of a child named in a report.

(2) To a district court upon a finding that information data is necessary for the resolution of an issue arising in any phase of a case involving child abuse.

(3) To a court or administrative agency hearing an appeal for correction of ~~child abuse information report data and disposition data~~ as provided in section 235A.19.

(4) To an expert witness at any stage of an appeal necessary for correction of ~~child abuse information report data and disposition data~~ as provided in section 235A.19.

(5) To a probation or parole officer, juvenile court officer, or adult correctional officer having custody or supervision of, or conducting an investigation for a court or the board of parole regarding, a person named in a report as a victim of child abuse or as having abused a child.

e. Others as follows, but only with respect to report data and disposition data for cases of founded child abuse subject to placement in the registry pursuant to section 232.71D:

(1) To a person conducting bona fide research on child abuse, but without information data identifying individuals named in a child abuse report, unless having that information data open to review is essential to the research or evaluation and the authorized registry officials give prior written approval and the child, the child's guardian or guardian ad litem and the person named in a report as having abused a child give permission to release the information data.

(2) To registry or department personnel when necessary to the performance of their official duties or to a person or agency under contract with the department to carry out official duties and functions of the registry department.

(3) To the department of justice for the sole purpose of the filing of a claim for restitution or compensation pursuant to section 910A.5 and section 912.4, subsections 3 through 5. Data provided pursuant to this subparagraph is subject to the provisions of section 912.10.

(4) To a legally constituted child protection agency of another state which is investigating or assessing or treating a child named in a report as having been abused or which is investigating or assessing or treating a person named as having abused a child.

(5) To a public or licensed child-placing agency of another state responsible for an adoptive or foster care preplacement or placement evaluation.

(6) To the attorney for the department of human services who is responsible for representing the department.

(7) To the state and local citizen foster care review boards created pursuant to sections 237.16 and 237.19.

(8) To an employee or agent of the department of human services regarding a person who is providing child day care if the person is not registered or licensed to operate a child day care facility.

(9) To the board of educational examiners created under chapter 272 for purposes of determining whether a practitioner's license should be denied or revoked.

(10) To a legally constituted child protection agency in another state if the agency is conducting a records check of a person who is providing care or has applied to provide care to a child in the other state.

(11) To the legally authorized protection and advocacy agency recognized in section 135C.2, if a person identified in the information as a victim or a perpetrator of abuse resides in or receives services from a facility or agency because the person is diagnosed as having a developmental disability or a mental illness.

(12) To the department of human services for a record check relating to employment or residence pursuant to section 218.13.

~~(13) To an administrator of a child day care resource and referral agency which has entered into an agreement authorized by the department to provide child day care resource and referral services. Access is authorized if the information concerns a person providing child day care services or a person employed by a provider of such services and the agency includes the provider as a referral or the provider has requested to be included as a referral.~~

~~(14) (13)~~ To the Iowa board for the treatment of sexual abusers for purposes of certifying sex offender treatment providers.

~~(14) To an employee or agent of the department responsible for registering or licensing or approving the registration or licensing of an agency or facility, or to an individual providing care to a child and regulated by the department.~~

~~(15) To an employee of the department responsible for an adoptive placement, a certified adoption investigator, or licensed child placing agency responsible for an adoptive placement.~~

f. The following, but only with respect to disposition data for cases of founded child abuse subject to placement in the central registry pursuant to section 232.71D:

~~(15)~~ To a person who submits written authorization from an individual allowing the person access to ~~information data~~ pursuant to this subsection on behalf of the individual in order to verify whether the individual is named in a founded child abuse report as having abused a child.

~~3. Access to unfounded child abuse information is authorized only to those persons identified in subsection 2, paragraph "a", paragraph "b", subparagraphs (2) and (5), and paragraph "c", subparagraph (2), and to the department of justice for purposes of the crime victim compensation program in accordance with section 912.10.~~

3. Access to report data and disposition data for a case of child abuse determined to meet the definition of child abuse, which data is not subject to placement in the central registry pursuant to section 232.71D, is authorized only to the following persons:

a. Subjects of a report identified in subsection 2, paragraph "a".

b. Persons involved in an investigation or assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (3), (4), (6), (7), and (9).

c. Others identified in subsection 2, paragraph "e", subparagraphs (2), (3), and (6).

4. Access to report data for a case of child abuse determined to not meet the definition of child abuse, which data is not subject to placement in the central registry pursuant to section 232.71D, is authorized only to the following:

a. Subjects of a report identified in subsection 2, paragraph "a".

b. Persons involved in an investigation or assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (6), and (7).

c. Others identified in subsection 2, paragraph "e", subparagraph (2).

4 5. Access to ~~founded child abuse information~~ disposition data subject to placement in the central registry pursuant to section 232.71D is authorized to the department of personnel or to the personnel office of a public employer, as defined in section 20.3, as necessary for presentation in grievance or arbitration procedures provided for in sections 19A.14 and 20.18. ~~Child abuse information~~ Disposition data introduced into a grievance or arbitration proceeding shall not be considered a part of the public record of a case.

6. a. If a child who is a legal resident of another state is present in this state and a report of child abuse is made concerning the child, the department shall act to ensure the safety of the child. The department shall contact the child's state of legal residency to coordinate the investigation or assessment of the report. If the child's state of residency refuses to conduct

an investigation or assessment, the department shall commence an appropriate investigation or assessment.

b. If a report of child abuse is made concerning an alleged perpetrator who resides in this state and a child who resides in another state, the department shall assist the child's state of residency in conducting an investigation or assessment of the report. The assistance shall include but is not limited to an offer to interview the alleged perpetrator and any other relevant source. If the child's state of residency refuses to conduct an investigation or assessment of the report, the department shall commence an appropriate investigation or assessment. The department shall seek to develop protocols with states contiguous to this state for coordination in the investigation or assessment of a report of child abuse when a person involved with the report is a resident of another state.

Sec. 10. Section 235A.17, subsection 2, Code 1997, is amended to read as follows:

2. The department of human services may notify orally the mandatory reporter in an individual child abuse case of the results of the case investigation and of the confidentiality provisions of sections 235A.15 and 235A.21. The department shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. A If the report data and disposition data have been placed in the registry as founded child abuse pursuant to section 232.71D, a copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18. Otherwise, a copy of the written notice shall be retained by the department with the case file.

Sec. 11. Section 235A.18, Code 1997, is amended to read as follows:

235A.18 SEALING AND EXPUNGEMENT OF FOUNDED CHILD ABUSE INFORMATION.

1. Report data and disposition data relating to a particular case of alleged abuse which has been determined to be founded child abuse and placed in the central registry in accordance with section 232.71D shall be maintained in the registry as follows:

a. ~~Child abuse information~~ Report and disposition data relating to a particular case of suspected ~~alleged~~ child abuse shall be sealed ten years after the receipt ~~initial placement~~ of the ~~initial report of such abuse by data in~~ the registry unless good cause be shown why the ~~information data~~ should remain open to authorized access. If a subsequent report of a suspected an alleged case of child abuse involving the child named in the ~~initial report data~~ placed in the registry as the victim of abuse or a person named in ~~such report the data~~ as having abused a child is received by the ~~registry department~~ within this ten-year period, the ~~information data~~ shall be sealed ten years after receipt of the subsequent report unless good cause be shown why the ~~information data~~ should remain open to authorized access.

b. ~~The information~~ Data sealed in accordance with this section shall be expunged eight years after the date the ~~information data~~ was sealed.

2. ~~Child abuse information which cannot be determined by a preponderance of the evidence to be founded or unfounded shall be sealed one year after the receipt of the initial report of abuse and expunged five years after the date it was sealed. Child abuse information which is determined by a preponderance of the evidence to be unfounded shall be expunged when it is determined to be unfounded. A report shall be determined to be unfounded as a result of any of the following:~~

- a. ~~The investigation of a report of suspected child abuse by the department.~~
- b. ~~A successful appeal as provided in section 235A.10.~~
- c. ~~A court finding by a juvenile or district court.~~

The juvenile or district court and county attorney shall expunge child abuse information upon notice from the registry. The supreme court shall prescribe rules establishing the period of time child abuse information is retained by the juvenile and district court. A county attorney shall not retain child abuse information in excess of the time period the information would be retained under the rules prescribed by the supreme court.

3. ~~However, if a correction of child abuse information is requested under section 235A.10~~



and the issue is not resolved at the end of the one-year period, the information shall be retained until the issue is resolved and if the child abuse information is not determined to be founded, the information shall be expunged at the appropriate time under subsection 2.

4. 3. The registry, at least once a year, shall review and determine the current status of child abuse reports which are transmitted or made to the registry after July 1, 1974, which are at least one year old and in connection with which no investigatory report has been filed by the department of human services pursuant to section 232.71. If no such investigatory report has been filed, the registry shall request the department of human services to file a report. In the event a report is not filed within ninety days subsequent to such a request, the report and information relating thereto shall be sealed and remain sealed unless good cause be shown why the information should remain open to authorized access. If required by this subsection, for child abuse information in the central registry as of July 1, 1997, the central registry shall perform a review of the information utilizing the requirements for referral of child abuse information to the central registry as founded child abuse under section 232.71D. If the review indicates the information would not be placed in the registry as founded child abuse under section 232.71D, the information shall be expunged from the central registry. Child abuse information which is expunged from the central registry under this subsection shall not be retained by the department any longer than the time period in rule for retaining information which is not placed in the central registry, allowing credit for the amount of time the information was held in the central registry. If the review indicates the child abuse information would be placed in the central registry under section 232.71D, the information shall be subject to the provisions of subsection 1, as to the time period the information is to be retained in the registry. A review shall be performed under any of the following conditions:

a. The department is considering the information while performing a record check evaluation under law or administrative rule.

b. A review is indicated under a procedure for performing reviews adopted by the department.

4. The department of human services shall adopt rules establishing the period of time child abuse information which is not maintained in the central registry is retained by the department.

Sec. 12. Section 235A.19, Code 1997, is amended to read as follows:

235A.19 EXAMINATION, REQUESTS FOR CORRECTION OR EXPUNGEMENT AND APPEAL.

1. A subject of a child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", shall have the right to examine child abuse information in the registry report data and disposition data which refers to the subject. The registry department may prescribe reasonable hours and places of examination.

2. a. A subject of a child abuse report may file with the department within six months of the date of the notice of the results of an investigation required by section 232.71, subsection 7, or an assessment performed in accordance with section 232.71A, a written statement to the effect that child abuse information report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that information data or of the findings of the investigation or assessment report. The department shall provide the subject with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the information data or the findings, unless the department corrects the information data or findings as requested. The department shall delay the expungement of information which is not determined to be founded until the conclusion of a proceeding to correct the information or findings. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the information data or findings.

b. The department shall not disclose any child abuse information report data or disposition data until the conclusion of the proceeding to correct the information data or findings, except as follows:

- (1) As necessary for the proceeding itself.
- (2) To the parties and attorneys involved in a judicial proceeding.
- (3) For the regulation of child care or child placement.
- (4) Pursuant to court order.
- (5) To the subject of an investigation or assessment or a report.
- (6) For the care or treatment of a child named in a report as a victim of abuse.
- (7) To persons involved in an investigation or assessment of child abuse.

3. The subject of a child abuse report may appeal the decision resulting from a hearing held pursuant to subsection 2 to the district court of Polk county or to the district court of the district in which the subject of the child abuse report resides. Immediately upon appeal the court shall order the department to file with the court a certified copy of the child abuse information report data or disposition data. Appeal shall be taken in accordance with chapter 17A.

4. Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access ~~thereto~~ to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. ~~No~~ A person other than the appellant shall not permit a copy of any of the testimony or pleadings or the substance ~~thereof~~ of the testimony or pleadings to be made available to any person other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235A.21.

5. Whenever the registry department corrects or eliminates information data as requested or as ordered by the court, the registry department shall advise all persons who have received the incorrect information data of such fact. Upon application to the court and service of notice on the registry department, any subject of a child abuse report may request and obtain a list of all persons who have received child abuse information report data or disposition data referring to the subject.

6. In the course of any proceeding provided for by this section, the identity of the person who reported the disputed information data and the identity of any person who has been reported as having abused a child may be withheld upon a determination by the registry department that disclosure of their identities would be detrimental to their interests.

Sec. 13. Section 235A.20, Code 1997, is amended to read as follows:

235A.20 CIVIL REMEDY.

Any aggrieved person may institute a civil action for damages under chapter 669 or 670 or to restrain the dissemination of child abuse information in violation of this chapter, and any person, agency or other recipient proven to have disseminated or to have requested and received child abuse information in violation of this chapter, or any employee of the department who knowingly destroys investigation or assessment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney's fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

Sec. 14. Section 235A.21, subsection 1, Code 1997, is amended to read as follows:

1. Any person who willfully requests, obtains, or seeks to obtain child abuse information under false pretenses, or who willfully communicates or seeks to communicate child abuse information to any agency or person except in accordance with sections 235A.15 and 235A.17, or any person connected with any research authorized pursuant to section 235A.15 who willfully falsifies child abuse information or any records relating ~~thereto~~ to child abuse information, or any employee of the department who knowingly destroys investigation or assessment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to com-

municate child abuse information except in accordance with sections 235A.15 and 235A.17 shall be guilty of a simple misdemeanor.

Sec. 15. Section 235A.22, Code 1997, is amended to read as follows:

**235A.22 EDUCATION PROGRAM.**

The department of human services shall require an educational program for employees of the ~~registry department with access to child abuse information~~ on the proper use and control of child abuse information.

Sec. 16. Section 235A.23, Code 1997, is amended to read as follows:

**235A.23 REGISTRY REPORTS.**

1. The ~~registry department of human services~~ may compile statistics, conduct research, and issue reports on child abuse, provided identifying details of the subject of child abuse reports are deleted from any report issued.

2. The ~~registry department~~ shall issue an annual report on its administrative operation, including information as to the number of requests for child abuse data, the proportion of requests attributable to each type of authorized access, the frequency and nature of irregularities, and other pertinent matters.

Sec. 17. 1997 Iowa Acts, Senate File 176, section 2, if enacted,\* is amended by striking the section and inserting in lieu thereof the following:

SEC. 2. Section 232.70, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a report would be determined to constitute an allegation of child abuse as defined under section 232.68, subsection 2, paragraph "c" or "e", except that the suspected abuse resulted from the acts or omissions of a person other than a person responsible for the care of the child, the department shall refer the report to the appropriate law enforcement agency having jurisdiction to investigate the allegation. The department shall refer the report orally as soon as practicable and in writing within seventy-two hours of receiving the report.

Sec. 18. 1997 Iowa Acts, Senate File 230, sections 14, 15, and 16 amending section 235A.15, if enacted,\*\* are repealed.

Sec. 19. 1997 Iowa Acts, Senate File 230, sections 18 and 19, amending section 235A.18, Code 1997, if enacted,\*\* are repealed.

Sec. 20. 1997 Iowa Acts, Senate File 230, section 20, amending section 235A.19, subsection 2, paragraph a, if enacted,\*\* is repealed.

Sec. 21. **RETROACTIVE REGISTRY REVIEWS.** A person who is a subject of a child abuse report which, as of July 1, 1997, is included as information in the central registry under chapter 235A may submit a written request for review and expungement of the information from the central registry which refers to the person. Child abuse information placed in the central registry for a circumstance which is listed in section 232.71D, subsection 3, as enacted by this Act, is not eligible for review. The request must be submitted during the period beginning July 1, 1997, and ending December 31, 1997. The department shall perform the review in accordance with the provisions of section 235A.18, subsection 3, as enacted by this Act. The department shall submit a report to the general assembly on or before February 1, 1998, indicating the number of requests received and projecting a time frame to complete the reviews based upon the usage of specific staffing levels.

Sec. 22. **MINOR INJURY CRITERIA.** The department of human services shall convene a group of experienced parents from families of various sizes and with children of various ages and child abuse experts to develop uniform criteria for identifying what constitutes a minor physical injury and the circumstances in which a minor injury does not cause con-

\* Chapter 85 herein

\*\* Chapter 35 herein

cern about the safety or risk of harm to a child. The group shall include but is not limited to members of the child death review team. The group shall present recommended criteria and other recommendations to the governor and the general assembly on or before November 1, 1997.

Sec. 23. EVALUATION. It is the intent of the general assembly that the department of human services will seek funding for the fiscal year beginning July 1, 1998, and ending June 30, 1999, for an independent evaluation of the changes implemented in the state's child protection system pursuant to the enactments of the Seventy-seventh General Assembly, 1997 Session. The evaluation should be conducted during the fiscal year beginning July 1, 1998, for submission to the governor and general assembly during the 1999 legislative session. The evaluation should include but is not limited to a determination of whether the system changes have improved the safety of children and the support of families in the community, and should identify indicators of increased community involvement in child protection.

## DIVISION II ASSESSMENT-BASED AMENDMENTS — REPEALS

Sec. 24. Section 232.71B, subsection 11, if enacted by 1997 Iowa Acts, Senate File 230,\* is amended by adding the following new paragraph:

**NEW PARAGRAPH.** g. The department shall notify the subjects of the child abuse report, as identified in section 235A.15, subsection 2, paragraph "a", of the results of the assessment, of the subject's right, pursuant to section 235A.19, to correct the report data or disposition data which refers to the subject, and of the procedures to correct the data.

Sec. 25. Section 232.71D, subsection 1, as enacted by this Act, is amended to read as follows:

1. The requirements of this section shall apply to child abuse information ~~in the report of an investigation performed in accordance with section 232.71 or in the report of relating to a report of child abuse and to~~ an assessment performed in accordance with section ~~232.71A~~ 232.71B.

Sec. 26. Section 232.71D, subsection 5, paragraph a, subparagraphs (1) and (2), Code 1997, as enacted by this Act, are amended to read as follows:

- (1) ~~Investigation or assessment~~ Assessment data.
- (2) Information pertaining to an allegation of child abuse for which there was no ~~investigation or assessment~~ performed.

Sec. 27. Section 235A.13, unnumbered paragraph 1, Code 1997, is amended to read as follows:

As used in chapter 232, division III, part 2, and sections 235A.13 to 235A.23, unless the context otherwise requires:

Sec. 28. Section 235A.13, subsection 1, paragraph b, Code 1997, as amended by this Act, is amended to read as follows:

- b. ~~Investigation or assessment~~ Assessment data.

Sec. 29. Section 235A.13, subsection 5, Code 1997, is amended to read as follows:

5. "Individually identified" means any report, ~~investigation~~ assessment, or disposition data which names the person or persons responsible or believed responsible for the child abuse.

Sec. 30. Section 235A.13, subsection 6, unnumbered paragraph 1, Code 1997, as amended by this Act, is amended to read as follows:

~~"Investigation or assessment~~ Assessment data" means any of the following information pertaining to the department's evaluation of a family:

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\* Chapter 35 herein

Sec. 31. Section 235A.13, subsection 8, unnumbered paragraph 1, Code 1997, as amended by this Act, is amended to read as follows:

"Report data" means any of the following information pertaining to an ~~investigation or~~ assessment of an allegation of child abuse in which the department has determined the alleged child abuse meets the definition of child abuse:

Sec. 32. Section 235A.15, subsection 2, paragraph b, unnumbered paragraph 1, Code 1997, as amended by this Act, is amended to read as follows:

b. Persons involved in an ~~investigation~~\* assessment of child abuse as follows:

Sec. 33. Section 235A.15, subsection 2, paragraph b, subparagraphs (2), (3), (4), and (8), Code 1997, as amended by this Act, are amended to read as follows:

(2) To an employee or agent of the department of human services responsible for the ~~investigation~~\* assessment of a child abuse report.

(3) To a law enforcement officer responsible for assisting in an ~~investigation~~ assessment of a child abuse allegation or for the temporary emergency removal of a child from the child's home.

(4) To a multidisciplinary team, if the department of human services approves the composition of the multidisciplinary team and determines that access to the team is necessary to assist the department in the ~~investigation~~, diagnosis, assessment, and disposition of a child abuse case.

(8) To a licensing authority for a facility providing care to a child named in a report, if the licensing authority is notified of a relationship between facility policy and the alleged child abuse under section ~~232.71, subsection 4~~ 232.71B.

Sec. 34. Section 235A.15, subsection 2, paragraph d, unnumbered paragraph 1, Code 1997, as amended by this Act, is amended to read as follows:

Report data and disposition data, and ~~investigation or~~ assessment data to the extent necessary for resolution of the proceeding, relating to judicial and administrative proceedings as follows:

Sec. 35. Section 235A.15, subsection 3, paragraph b, Code 1997, as amended by this Act, is amended to read as follows:

b. Persons involved in an ~~investigation or~~ assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (3), (4), (6), (7), and (9).

Sec. 36. Section 235A.15, subsection 4, paragraph b, Code 1997, as amended by this Act, is amended to read as follows:

b. Persons involved in an ~~investigation or~~ assessment of child abuse identified in subsection 2, paragraph "b", subparagraphs (2), (6), and (7).

Sec. 37. Section 235A.15, subsection 6, Code 1997, as amended by this Act, is amended to read as follows:

6. a. If a child who is a legal resident of another state is present in this state and a report of child abuse is made concerning the child, the department shall act to ensure the safety of the child. The department shall contact the child's state of legal residency to coordinate the ~~investigation~~\* assessment of the report. If the child's state of residency refuses to conduct an investigation\*\*, the department shall commence an appropriate ~~investigation~~\* assessment.

b. If a report of child abuse is made concerning an alleged perpetrator who resides in this state and a child who resides in another state, the department shall assist the child's state of residency in conducting an ~~investigation~~\* assessment of the report. The assistance shall include but is not limited to an offer to interview the alleged perpetrator and any other relevant source. If the child's state of residency refuses to conduct an investigation\*\* of the report, the department shall commence an appropriate ~~investigation~~\* assessment. The department shall seek to develop protocols with states contiguous to this state for coordina-

\* The stricken word "or" also probably intended

\*\* See reference to assessment in §9 herein

tion in the investigation or assessment of a report of child abuse when a person involved with the report is a resident of another state.

Sec. 38. Section 235A.17, subsection 2, Code 1997, as amended by this Act, is amended to read as follows:

2. The department of human services may notify orally the mandatory reporter in an individual child abuse case of the results of the case ~~investigation~~ assessment and of the confidentiality provisions of sections 235A.15 and 235A.21. The department shall subsequently transmit a written notice to the mandatory reporter of the results and confidentiality provisions. If the report data and disposition data have been placed in the registry as founded child abuse pursuant to section 232.71D, a copy of the written notice shall be transmitted to the registry and shall be maintained by the registry as provided in section 235A.18. Otherwise, a copy of the written notice shall be retained by the department with the case file.

Sec. 39. Section 235A.19, subsection 2, paragraph a, Code 1997, as amended by this Act, is amended to read as follows:

a. A subject of a child abuse report may file with the department within six months of the date of the notice of the results of ~~an investigation required by section 232.71, subsection 7,~~ or an assessment performed in accordance with section 232.71A, a written statement to the effect that report data and disposition data referring to the subject is in whole or in part erroneous, and may request a correction of that data or of the findings of the ~~investigation or~~ assessment report. The department shall provide the subject with an opportunity for an evidentiary hearing pursuant to chapter 17A to correct the data or the findings, unless the department corrects the data or findings as requested. The department may defer the hearing until the conclusion of a pending juvenile or district court case relating to the data or findings.

Sec. 40. Section 235A.19, subsection 2, paragraph b, subparagraphs (5) and (7), Code 1997, as amended by this Act, are amended to read as follows:

- (5) To the subject of an ~~investigation or~~ assessment or a report.
- (7) To persons involved in an ~~investigation or~~ assessment of child abuse.

Sec. 41. Section 235A.20, Code 1997, as amended by this Act, is amended to read as follows:

#### 235A.20 CIVIL REMEDY.

Any aggrieved person may institute a civil action for damages under chapter 669 or 670 or to restrain the dissemination of child abuse information in violation of this chapter, and any person, agency or other recipient proven to have disseminated or to have requested and received child abuse information in violation of this chapter, or any employee of the department who knowingly destroys ~~investigation or~~ assessment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 shall be liable for actual damages and exemplary damages for each violation and shall be liable for court costs, expenses, and reasonable attorney's fees incurred by the party bringing the action. In no case shall the award for damages be less than one hundred dollars.

Sec. 42. Section 235A.21, subsection 1, Code 1997, as amended by this Act, is amended to read as follows:

1. Any person who willfully requests, obtains, or seeks to obtain child abuse information under false pretenses, or who willfully communicates or seeks to communicate child abuse information to any agency or person except in accordance with sections 235A.15 and 235A.17, or any person connected with any research authorized pursuant to section 235A.15 who willfully falsifies child abuse information or any records relating to child abuse information, or any employee of the department who knowingly destroys ~~investigation or~~ assess-

ment data except in accordance with rule as established by the department for retention of child abuse information under section 235A.18 is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate child abuse information except in accordance with sections 235A.15 and 235A.17 shall be guilty of a simple misdemeanor.

Sec. 43. **EFFECTIVE DATE.** Enactment of this division of this Act is contingent upon the enactment of 1997 Iowa Acts, Senate File 230.\* If Senate File 230 is enacted, this division of this Act takes effect July 1, 1998.

Approved May 21, 1997

## CHAPTER 177

### OPERATING WHILE INTOXICATED AND RELATED PROVISIONS

H.F. 707

† **AN ACT** relating to substance abuse evaluation and education, use of ignition interlock devices, motor vehicle license revocations and payment of restitution by certain drivers; to civil liability, forfeiture, and criminal penalties arising from operation of a motor vehicle by a person whose license is suspended, denied, revoked, or barred; and providing certain bail restrictions and penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 321.12, Code 1997, is amended to read as follows:

321.12 OBSOLETE RECORDS DESTROYED.

1. The director may destroy any records of the department which have been maintained on file for three years which the director deems obsolete and of no further service in carrying out the powers and duties of the department, except as otherwise provided in this section.

2. ~~However, operating~~ Operating records relating to a person who has been issued a commercial driver's license shall be maintained on file in accordance with rules adopted by the department.

3. The following records may be destroyed according to the following requirements:

a. Records concerning suspensions authorized under section 321.210, subsection 1, paragraph "g", and section 321.210A may be destroyed six months after the suspension is terminated and the requirements of section 321.191 have been satisfied.

b. Records concerning suspensions and surrender of licenses or registrations required under section 321A.31 for failing to maintain proof of financial responsibility, as defined in section 321A.1, may be destroyed six months after the requirements of sections 321.191 and 321A.29 have been satisfied.

4. The director shall not destroy any operating records pertaining to arrests or convictions for operating while intoxicated, in violation of section 321J.2, ~~which are more than twelve years old. The twelve-year period shall commence with the date of the arrest or conviction for the offense, whichever first occurs. However, the director shall not destroy operating records which pertain to arrests or convictions for operating while intoxicated after the expiration of twelve years when the motor vehicle being operated was a commercial motor vehicle or if all of the provisions of the court order have not been satisfied.~~

~~The director shall destroy any or operating records pertaining to revocations for violations of section 321J.2A which are more than twelve years old. The twelve-year period shall~~

\* Chapter 35 herein

† Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State